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09/961,234	09/24/2001	William A. Royall JR.	ROY03 001	6263

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EXAMINER	
CORRIELUS, JEAN M	
ART UNIT	**PAPER NUMBER**
2162	

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/961,234	ROYALL ET AL.	
	Examiner	Art Unit	
	Jean M. Corrielus	2162	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 August 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is response to the request for consideration filed on August 29, 2005, in which claims 1-8 are presented for further examination.

Response to Arguments

2. Applicant's arguments filed on August 29, 2005 with respect to claims 1-8 have been considered but they are not persuasive. (See examiner remark's statement).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-4 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grady et al., "Sending GMAT score reports to schools: patterns of requests at registration" (hereinafter

"Grady") and Tjaden et al., "A worldwide, web based study of the attitudes of college freshman toward computing" (hereinafter "Tjaden").

As to claim 1, Grady discloses a method for generating application from candidates interested in attending an educational institution (page 1). In particular, Grady discloses the claimed "accessing a candidate database containing personal information" by accessing the pool database for potential candidates (see Grady's pages 1-2); "profiling the candidates according to criteria established by the educational institution" (see Grady's pages 1-7); "segmenting the profiled candidates into a target group" categorizing those registrants whom are well qualified and whom meet the institution's particular enrollment goals (see Grady's pages 1-7); "providing a web site containing links to a survey and to the partial application" (see Grady's pages 4-5). Grady fails to specifically provide each target candidate with an access number to ensure that each candidate to access his/her own personal information and wherein only one survey response or application is submitted by an individual candidate and also access to a partial application to the educational institution for enrollment.

Grady, however, discloses the use of constructing an electronic survey (automation of known GMAT registration process), creating a unique access number for each candidate by providing each candidate with his/her unique access number in an email request for information by an electronic survey and updating the database based on the response from the survey (automation of known GMAT registration process using Internet). It is important to note that Grady discloses a system that sends registrant (candidate) specified school information including GMAT scores, his/her undergraduate academic record and the registrant's (candidate's) background characteristics (age, sex, and race), wherein this information is useful to a recipient

school in accessing the attributes of its applicants (evaluating candidates), in which enables the school to target those registrant who are well qualified and who meet the institution's particular enrollment goals(Grady's pages 1-7), based on the result holds despite the fact that respondents to the survey were in most cases asked to identify their first choice school well after they had taken the requirement test, so most of the respondents had gained knowledge of their requests for admission either accepted or denied. These implications have the functional limitations of allowing the candidate to have accessed to a partial application for enrollment thereby compiling the applications to the which have been electronically completed and then transmitting them to the educational institution

Tjaden, on the other hand, is directed to a system that initiates a worldwide survey of colleges and universities to re-evaluate attitudes of students toward computing courses and enables each institution to immediately view or inspect their own profile and compare their numbers to those of all other schools in the database (see Tjaden's page 29). Tjaden discloses the use of many diverse interest groups in the educational domain that gives rise to many interest requirements, wherein the students may wish to know how best to select courses based on prediction of how well they will perform in the course selected, wherein the alumni office may need to know how best to perform target mailing so as to achieve the best effort in reaching out to those alumni that are likely to respond. Tjaden recognizes that all those applications not only contribute towards the education institute delivering a better quality education experience, but also aid the institution in running its administrative tasks. Tjaden also understands the problem of allocating students to different groups and the question, how many groups should be allocated and how to decide the boundary of each group. Further, Tjaden discloses the use of a specific

system that can be use to select the right students for various purposes. Such system of Tjaden includes web-based forms for effortless data entry, wherein the forms may be downloaded by the target candidates for manual data entry by those who so choose. More specifically, each target candidate is provided with an identification code in order to correlate data by institution, thereby providing the capability of allowing each target candidate to inspect his/her own profile and compare their numbers to those of all other school in the database (Tjaden's pages 31-32), similarly to the description provided by the specification pages 11-13. These implications also have the functional limitations of assigning a unique access number ("PIN") to each candidate in the target group; electronically mailing each candidate in the target group the assigned PIN and an invitation to use the PIN to access the web site; providing each candidate accessing the web site and indicating a continuing interest in the educational institution with electronic access to partial application; for each candidate who electronically accesses a partial application, customizing the partial application with personal information from the database; compiling the partial applications which have been electronically completed; and transmitting the partial application to the educational institution. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the use of providing candidates from the pool with an application for enrollment thereby compiling the applications to the which have been electronically completed and then transmitting them to the educational institution, in the combined system disclosed by Grady and Tjaden. One having ordinary skill in the art would have found it motivated to use to such a modification in Grady and Tjaden for the purpose of providing a method fro profiling an inquiry pool of candidates interest in attending an identified institution of higher learning preliminarily to targeting candidates from the pool with

for enrollment, with the ability to increase system effectiveness by automating the process of storing, evaluating, reporting and targeting (forwarding applications, brochures, etc.,) potential candidates.

As to claims 2 and 4, it is noted, however, that Grady recognizes the true value to schools of score report, depends on the extent to which it predicts a registrant's subsequent behavior, in which if the registrant is unlikely to apply to the school where the score report was sent or would not enroll if admitted, the report has little value as a planning or marketing tool, therefore, Grady found it important to provide evidence about whether these choices predict the specific school to which registrants will apply and at which they will matriculate that would help to determine both the extent to which registrants have a well defined set of schools they are interested in attending, and whether this set of schools is indicated by their score sending choices, wherein those in which registrants will apply and at which they will matriculate and will acknowledge for their interest (Grady's page 1). These implications provide the use of providing a personalized acknowledgement of each application received and inviting each candidate (registrant) to submit a full application. Grady does not explicitly discloses the use of providing electronic access through use of the PIN to a full application customized with personal information from the updated database. On the other hand, Tjaden discloses the use of providing electronic access through use of the PIN to a full application customized with personal information as a purpose of allowing a participating candidate to inspect his/her own profile (page 31-32). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teaching of the cited references by incorporate in Grady the use of providing

electronic access through use of the PIN to a full application customized with personal information in order to provide the capability of allowing a participating candidate to inspect his/her personal data.

As to claim 3, Grady discloses a method for generating application from candidates interested in attending an educational institution (page 1). In particular, Grady discloses the claimed "accessing a candidate database containing personal information" by accessing the pool database for potential candidates (see Grady's pages 1-2). Grady fails to specifically provide each target candidate with a partial application to the educational institution for enrollment. Grady, however, discloses a system that sends registrant (candidate) specified school information including GMAT scores, his/her undergraduate academic record and the registrant's (candidate's) background characteristics (age, sex, and race), wherein this information is useful to a recipient school in accessing the attributes of its applicants (evaluating candidates), in which enables the school to target those registrant who are well qualified and who meet the institution's particular enrollment goals (Grady's pages 1-7), based on the result holds despite the fact that respondents to the survey were in most cases asked to identify their first choice school well after they had taken the requirement test, so most of the respondents had gained knowledge of their requests for admission either accepted or denied. These implications have the functional limitations of allowing the candidate to have accessed to a partial application for enrollment thereby compiling the applications to which have been electronically completed to the educational institution

Tjaden, on the other hand, is directed to a system that initiates a worldwide survey of colleges and universities to re-evaluate attitudes of students toward computing courses and

enables each institution to immediately view or inspect their own profile and compare their numbers to those of all other schools in the database (see Tjaden's page 29). Tjaden discloses the use of many diverse interest groups in the educational domain that gives rise to many interest requirements, wherein the students may wish to know how best to select courses based on prediction of how well they will perform in the course selected, wherein the alumni office may need to know how best to perform target mailing so as to achieve the best effort in reaching out to those alumni that are likely to respond. Tjaden recognizes that all those applications not only contribute towards the education institute delivering a better quality education experience, but also aid the institution in running its administrative tasks. Tjaden also understands the problem of allocating students to different groups and the question, how many groups should be allocated and how to decide the boundary of each group. Further, Tjaden discloses the use of a specific system that can be use to select the right students for various purposes. Such system of Tjaden includes web-based forms for effortless data entry, wherein the forms may be downloaded by the target candidates for manual data entry by those who so choose. More specifically, each target candidate is provided with an identification code in order to correlate data by institution, thereby providing the capability of allowing each target candidate to inspect his/her own profile and compare their numbers to those of all other school in the database (Tjaden's pages 31-32), similarly to the description provided by the specification pages 11-13. These implications disclose the use of providing each candidate with a partial application for each candidate who electronically accesses a partial application. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the use of providing candidates from the pool with an application for enrollment thereby compiling the applications to

the which have been electronically completed and then transmitting them to the educational institution, in the combined system disclosed by Grady and Tjaden. One having ordinary skill in the art would have found it motivated to use to such a modification in Grady and Tjaden for the purpose of providing a method fro profiling an inquiry pool of candidates interest in attending an identified institution of higher learning preliminarily to targeting candidates from the pool with for enrollment, with the ability to increase system effectiveness by automating the process of storing, evaluating, reporting and targeting (forwarding applications, brochures, etc.,) potential candidates.

As to claims 7-8, the limitations of claims 7-8 have been noted in the rejection of claims 1-3 above. They are, therefore, rejected under the same rationale.

6. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grady et al., and Tjaden et al., as applied to claims 1-3 above, and further in view of Sharma et al., (hereinafter "Sharma") article entitled "Retraining for a graduate program in computer science".

As to claims 4-6, Grady and Tjaden disclose substantially the invention as claimed. However, neither Grady nor Tjaden discloses the use of providing candidates who are invited to submit a complete application an incentive in return.

Sharma, on the other hand, in view of the shortage of computer specialists, recognizes that it would be difficult to attract students with BS degrees in computer science. Sharma, however, as a partial solution, prepares students with BS degrees in other areas for entrance to a graduate program by starting to offer accelerates programs (pages 284-285). This implication discloses

the claimed offering each candidate invited to submit an application an incentive to submit the application and using the criteria established by the educational institution for the target group. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include into Grady and Tjaden's combined system the use of providing candidate who are invited to submit a complete application an incentive in return. One having ordinary skill in the art would have found it motivated to use to such a modification in Grady and Tjaden's combined system for the purpose of encouraging potential candidates in enrolling in the educational institution of interest.

Remark

(A). Applicant alleged that claims 1-8 have been improperly rejected over combinations of Grady, Tjaden and Sharma. The examiner disagrees with the precedent allegation. Applicants' allegations are not relied whether the combination of the cited references discloses the recited claimed elements, rather than the rationale to provide a suggestion or motivation to modify the cited references. Applicant's arguments clearly mischaracterize the teachings resulting from the Grady, Tjaden and Sharma's combined system, and offer a piecemeal analysis of the references. In response to applicant's arguments against the references individually, Applicant is reminded that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Further, in response to Applicant's argument that there is no suggestion to modify the references, the Examiner recognizes that obviousness can only be

established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Grady is used to generate an important source of information about the size and nature of the pool of potential graduate students having highest score in GMAT exams and sent the GMAT score report to specific graduate management schools at the request of registrants, while Tjaden' system is directed to initiate a worldwide survey of colleges and universities to evaluate attitudes of student toward computing courses. Whereas, Sharma' system is designed with both an academic as well as professional orientation and providing candidates who are interested in an educational institution with an opportunity. Moreover, modified Grady or Tjaden' system to enroll qualified candidates to an institution would not change the principle of operation because Grady' system provides the school with the ability to target those registrants who are well qualified and who meet the institution's particular enrollment goals. It is clear that Grady' system can be modified to increase the number of applications for enrollment at an educational institution and provide candidates who are interested in an educational institution with an opportunity.

Therefore, the motivation is proper since Grady suggests the concept of enabling the school to target those registrants who are well qualified and who meet the institution's particular enrollment goals, while Tjaden provide a worldwide examination (survey) of colleges and universities to evaluate the attitudes of students toward enrollment at an educational institution, and Sharma provides candidates who are interested in an educational institution with an

opportunity. Thus, the ordinary skilled artisan would have found obvious to look to analogous art in the data processing technology for similar teachings to reinforce the efficiency since by providing candidates who are interested in an educational institution with an opportunity would encourage or increase the number of the well qualified candidates and meet the institution's particular enrollment goals to enroll in the such institution. Applicants are reminded that the examiner is entitled to the broadest reasonable interpretation of the claims. The Applicants always have the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater 162 USPQ 541, 550-51 (CCPA 1969). Consequently, the rejection with respect to claims invention is hereby sustained.

(B). Applicant asserted that Grady does not disclose the implementation required to obtain the desired results. The examiner disagrees with the precedent assertion. However, when read and analyzed in the light of the specification, the invention as claimed does not support applicants' assertion. Moreover, the claims do not capture the essence of the invention as argued in applicants' remark page 3. It is important to note that, Grady provides strong evidence that where registrants have their score reports sent is a good indicator of their MBA school markets. It is important to remember that the extent to which registrants' choices about where to send score reports are associated with their application an matriculation behavior varies according to several factor, which is provide useful information about the decision making process by which registrants select graduate management programs is determined. . Applicants are reminded that the examiner is entitled to the broadest reasonable interpretation of the claims. The Applicants

always have the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater 162 USPQ 541, 550-51 (CCPA 1969). Consequently, the rejection with respect to claims invention is hereby sustained.

(C. Applicant asserted that Grady does not disclose a partial application and the office action grant no weight to the term "partial" and also Grady does not disclose customizing anything much less a partial application. The examiner disagrees with the precedent assertion. However, when read and analyzed in the light of the specification, the invention as claimed does not support applicants' assertion. Moreover, the claims do not capture the essence of the invention as argued in applicants' remark page 3. It is important to note that applicants are interpreting the claims very narrow without considering the broad teachings of the reference used in the rejection. In the last office action, the examiner went through the claims phrase by phrase and referred to the prior art pages and line numbers as to where he has drawn the correspondences between applicants' claims phrases and prior art. By failing to address these correspondences, applicants have failed to rebut the examiner's prima facie case of obviousness uses for a different purpose which does not alter the conclusion that its use in a prior art device would be prima facie obvious from the purpose disclosed in the reference. It is respectfully submitted that Jones discloses substantially the invention as broadly claimed. In particular, Grady, discloses the use of constructing an electronic survey (automation of known GMAT registration process), creating a unique access number for each candidate by providing each candidate with his/her unique access number in an email request for information by an electronic survey and updating the database

based on the response from the survey (automation of known GMAT registration process using Internet). It is important to note that Grady discloses a system that sends registrant (candidate) specified school information including GMAT scores, his/her undergraduate academic record and the registrant's (candidate's) background characteristics (age, sex, and race), wherein this information is useful to a recipient school in accessing the attributes of its applicants (evaluating candidates), in which enables the school to target those registrant who are well qualified and who meet the institution's particular enrollment goals(Grady's pages 1-7), based on the result holds despite the fact that respondents to the survey were in most cases asked to identify their first choice school well after they had taken the requirement test, so most of the respondents had gained knowledge of their requests for admission either accepted or denied. These implications have the functional limitations of allowing the candidate to have accessed to a partial application for enrollment thereby compiling the applications to the which have been electronically completed and then transmitting them to the educational institution. Tjaden, on the other hand, is directed to a system that initiates a worldwide survey of colleges and universities to evaluate attitudes of students toward computing courses and enables each institution to immediately view or inspect their own profile and compare their numbers to those of all other schools in the database (see Tjaden's page 29). Tjaden discloses the use of many diverse interest groups in the educational domain that gives rise to many interest requirements, wherein the students may wish to know how best to select courses based on prediction of how well they will perform in the course selected, wherein the alumni office may need to know how best to perform target mailing so as to achieve the best effort in reaching out to those alumni that are likely to respond. Tjaden recognizes that all those applications not only contribute towards the education institute

delivering a better quality education experience, but also aid the institution in running its administrative tasks. Tjaden also understands the problem of allocating students to different groups and the question, how many groups should be allocated and how to decide the boundary of each group. Further, Tjaden discloses the use of a specific system that can be use to select the right students for various purposes. Such system of Tjaden includes web-based forms for effortless data entry, wherein the forms may be downloaded by the target candidates for manual data entry by those who so choose. More specifically, each target candidate is provided with an identification code in order to correlate data by institution, thereby providing the capability of allowing each target candidate to inspect his/her own profile and compare their numbers to those of all other school in the database (Tjaden's pages 31-32), similarly to the description provided by the specification pages 11-13. These implications also have the functional limitations of assigning a unique access number ("PIN") to each candidate in the target group; electronically mailing each candidate in the target group the assigned PIN and an invitation to use the PIN to access the web site; providing each candidate accessing the web site and indicating a continuing interest in the educational institution with electronic access to partial application; for each candidate who electronically accesses a partial application, customizing the partial application with personal information from the database; compiling the partial applications which have been electronically completed; and transmitting the partial application to the educational institution. Therefore, the combination of Grady and Tjaden arrives to the claimed feature by providing the use of a partial application.

(D). Applicant contended that Grady is silent on how the application was accessed. The Examiner respectfully disagrees. However, when read and analyzed in the light of the specification, the invention as claimed does not support applicants' assertion. Moreover, the claims do not capture the essence of the invention as argued in applicants' remark page 3. The aforementioned assertions, how the application was accessed fails to disclose by Grady with regard to the claimed invention, was unsupported by objective factual evidence and was not found to be substantial evidentiary value. Such contentions are unfounded. Grady, however, has stated that one of the important source of information about the nature of a pool potential applicants is the GMAT score received in seeking to increase the number, qualify and diversity of students. Such of GMAT score report is useful to a recipient school in assessing the attributes of its applicants. Such accessed of information enable the school to target those registrants who are well qualified and who meet the institution's particular enrollment goals. There is evidence that shows the test results are sent to the greatest among those considering the most competitive schools by the test site. However, Applicants are interpreting the claims very narrow using the specification without considering the broad teaching of the reference stated in the rejection. Applicants cannot rely on the specification to impart to the claims limitations not recited therein. Such reliance is ineffective to define over the prior art. In re Lundberg, 244 F2d 543, 113 USPQ 530 (CCPA 1957); In re Winklans, 188 USPQ 129 (CCPA 1975). Applicant is further reminded of the clear difference between reading the claims in light of the specification as allowed by 35 U.S.C. 112, 6th paragraph, and by In re Donaldson 29 USPQ2d, 1845, 16 F.3d 1189 (Fed. Cir, 1994), and reading limitations of the specification into the claims In re Prater 415 F2d 1393, 162 USPQ 541 (CCPA 1969).

(E). Applicant generally alleged that there is no proper prima facie case of obviousness. In response to such allegations, the Examiner submits that rejection of claimed invention is sustained since the claims were properly rejected over the Grady, Tjaden and Sharma combination, as laid out in the office action of 6/16/05 and as discussed in the foregoing remarks. Additionally, Applicant is reminded that pursuant to 37 CFR 1.111(b), a general allegation that the claim define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the prior art of record is insufficient to rebut a prima facie case. Applicant alleges that there is no proper prima facie case of obviousness for the limitations of the cited claims. However, Applicant failed to actually explain how these limitations are distinguishable from the textual portions of the cited references on which the Examiner relied to establish the prima facie case. Consequently, Applicant has failed to successfully rebut the rejection of the cited claims. It has also been held that Applicant bears the burden of explaining why the evidence on which the Examiner relies is insufficient to establish a prima facie case or demonstrating that Applicant has provided evidence, which rebuts the prima facie case. See In re Rouffet, 149 F.3d 1350, 1355 47 USPQ2d 1453, 1455 (Fed. Cir. 1998).

Thus, for the above reasons, it is believed that the rejection under 35 U.S.C. 103 provides substantial evidence to support the rationale statement in the above rejection, and the rejection under 35 U.S.C. 103 should be sustained.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean M. Corrielus whose telephone number is (571) 272-4032. The examiner can normally be reached on 10 hours shift.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jean M Corrielus
Primary Examiner
Art Unit 2162

November 12, 2005